

REMARKS

By this amendment, claims 1, 7 and 9 are amended in response to the examiner's indication that the language "adapted to deform by contact with the inner surface of said vase" is functional in nature and does not positively claim the combination. Reconsideration of applicant's invention as defined in claims 1, 3-5, 7 and 9 is requested.

By the office action of October 21, 2005, the examiner rejected independent claims 1 and 9 under 35 U.S.C. 103(a) as being unpatentable over Ruibal in view of Roder and rejected independent claim 7 under 35 U.S.C. 102(b) as being anticipated by Ruibal. The plant holder disclosed in Ruibal is concerned with the stabilization of multitiered plant trays or shelves disposed in a conventional flower pot having a tapered interior surface. This is accomplished by cross arms 16 having orifices 18 which are sized slightly larger than the outer diameter of pole 14 such that cross arms 16 slide freely up and down on pole 14. This allows for use of the plant holder in combination with varying sized flower pots such that the cross arms are free to slide downwardly on pole 14 to the point where the ends of cross arms 16 engage the interior surface of flower pot 17. By this means, undesired lateral movement of wire baskets 12 and 48 is prevented.

On the other hand, applicant's invention is concerned with the problem of holding a flower holder within a cemetery vase without it blowing away. There is no discussion in Ruibal that the plant holder disclosed therein is meant to solve this problem. In fact, the Ruibal plant holder is susceptible to being blown away because cross arms 16 and 58 are equal to or less than the distance between pole 14 and the inner surface of the flower holder. As defined in applicant's amended independent claims 1, 7 and 9, the length of extensions 2 is greater than the distance between shaft 1 and the inner surface of vase 11.

The amended language in claims 1, 7 and 9 is not believed to present new matter which would require further consideration or search because the functional language "adapted to deform by contact with the inner surface of the vase" has been previously considered by the examiner and the amended language is simply the equivalent feature recited in positive structural terms.

From the above, it is believed independent claims 1, 7 and 9 are allowable. Dependent claims 3-5 are believed allowable because they define further specific features of applicant's invention.

From the above, it is believed that this application is in condition for allowance.
Therefore, reconsideration, entry of this amendment and allowance of claims 1, 3-5, 7 and 9 are requested.

Respectfully submitted,



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